



Montoya, Darlene <dmontoya@nmag.gov>

(no subject)

3 messages

Ken Jenkins <kjenkins@ci.las.vegas.nm.us>

Tue, Jan 24, 2017 at 12:42 PM

To: dmontoya@nmag.gov

Cc: juan_montano@ci.las-vegas.nm.us

Good morning Ms. Montoya

My name is Kenneth C. Jenkins and I am the Deputy Chief of Police here at the Las Vegas Police Department. I am in receipt of a request for our policies involving the investigation of officer involved shootings and or any other use of force issues involving our officers. I am the one that has been tasked with providing you with the information requested. Attached to this email I am providing you with our new and current policy involving use of force. We recently underwent a revision of this policy in accordance with the New Mexico Law Enforcement Accreditation Program, as we have been awarded our re-accreditation on December 8, 2016.

Attached to this email will be the current policy involving use of force, also attached will be the correspondence to our staff implementing our new policy and the date to complete such review. I will also include our departments use of force reporting form as this also changed. With our accreditation, we were in need of training on the new current policy, what we decided was to implement the training portion of this policy during our biennium training which is scheduled to take place this March.

I will tell you, in minor cases involving officer involved shootings(example: dangerous dog shootings) our department has handled them. In the more serious cases, we have sought the assistance from the New Mexico State Police to investigate, this has happened as most recent as August 7, 2015 when one of our officers fired his weapon at a wanted suspect who attempted to hit him with his vehicle.

Please let me know if this helps you. Also if there is anything else I can assist you with. I will also give you another contact email in the event this one does not work lvpdjenkins@gmail.com

Kenneth C. Jenkins
Deputy Chief of Police
[Las Vegas Police Department](#)
318 Moreno Ave.
Las Vegas NM, 87701

office (505)426-3162

Fax (505)425-5046



3 attachments



LVPD 2016 USE OF FORCE update 9-26-16.docx
67K



use of force report.doc
327K



new use of force policy.doc
31K

Montoya, Darlene <dmontoya@nmag.gov>
To: Ken Jenkins <kjenkins@ci.las.vegas.nm.us>
Cc: juan_montano@ci.las-vegas.nm.us

Tue, Jan 24, 2017 at 12:59 PM

D/C Jenkins:

Thank you so much for getting these to us. I will add your email for the Subcommittee.

Have a great rest of the day and stay safe.

[Quoted text hidden]

—
Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
(505) 490-4854

Mail Delivery Subsystem <mailer-daemon@googlemail.com>
To: dmontoya@nmag.gov

Tue, Jan 24, 2017 at 12:59 PM



Address not found

Your message wasn't delivered because the domain ci.las.vegas.nm.us couldn't be found. Check for typos or unnecessary spaces and try again.

The response from the remote server was:

DNS Error: 143226135 DNS type 'mx' lookup of ci.las.vegas.nm.us responded with code NXDOMAIN
Domain name not found: ci.las.vegas.nm.us

Final-Recipient: rfc822; kjenkins@ci.las.vegas.nm.us

Action: failed

Status: 4.0.0

Diagnostic-Code: smtp; DNS Error: 143226135 DNS type 'mx' lookup of ci.las.vegas.nm.us responded with code NXDOMAIN

Domain name not found: ci.las.vegas.nm.us

Last-Attempt-Date: Tue, 24 Jan 2017 11:59:56 -0800 (PST)

----- Forwarded message -----

From: "Montoya, Darlene" <dmontoya@nmag.gov>

To: Ken Jenkins <kjenkins@ci.las.vegas.nm.us>

Cc: juan_montano@ci.las-vegas.nm.us

Date: Tue, 24 Jan 2017 12:59:55 -0700

Subject: Re:

Thank you so much for getting these to us. I will add your email for the Subcommittee.

Have a great rest of the day and stay safe.

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— Message truncated —

Las Vegas Police Department

GENERAL ORDER**NUMBER:**

Chapter A11

**EFFECTIVE
DATE:**

10/04/2016

**SUPERSEDES
/RESCINDS
POLICY No:****USE OF FORCE**

This policy statement and the procedures there under are intended for department use only. The policies, procedures, and regulations are for internal agency administrative purposes and are not intended to create any higher legal standard of care or liability in evidentiary sense than is created by law. Violations of internal agency policies, procedures, regulations, or rules form the basis for disciplinary action by the agency. Violations of law form the basis for civil and/or criminal sanctions to be determined in the proper judicial setting, not through the administrative procedures of the agency.

ARTICLE I

General Provisions

§A11-1. Purpose

The use of force is a serious action and when deciding whether or not to use force, Police Officers shall act within the boundaries established by the United States and New Mexico Constitutions, relevant federal, state and local laws and precedents. This use of force policy and all other relevant and related Las Vegas Police Department's policies, best practices and training, are intended to establish guidelines that when combined with sound ethics and good judgment, provide for lawful application and use of force.

§A11-2 Policy

A Police Officer shall use only that degree of force that is objectively reasonable under the circumstances and only to effect lawful objectives. An Officer may use deadly force in accordance with this policy and the law, and when all reasonable alternatives appear impracticable or objectively unreasonable.

§A11-3 Applicability

This policy shall apply to all employees and volunteers of the Las Vegas Police Department who under the authority or color of law, are authorized or permitted to use force against another person for lawful purposes.

§A11-4 References

United States Constitution; Article II, Sections 10 and 18, New Mexico Constitution; Graham v. Connor, 490 U.S. 386 (1989); Tennessee v. Garner, 471 U.S. 1 (1985); Las Vegas Police Department Use of Force Policy (Rev. 1-11), Dona Ana Sheriff's Office Use of Force (General Order#2014-0001) Force Response to Resistance, New Mexico Law Enforcement Academy Core Curriculum, Instructor Guide, Model Policy on Use of Force, International Association of Chiefs of Police; "Use-of-force policies and training: Standards ADM.05.01-ADM.05.04, New Mexico Law Enforcement Standards Council

§A11-5. Definitions

- A. **Deadly force**: is force that has a substantial likelihood of causing death or serious bodily injury
- B. **Less-lethal force**: any force other than deadly force which is designed for or used in a manner so that it creates a lower potential for causing death or great bodily injury than conventional police tactics or traditional deadly force weapons
- C. **Imminent / immediate threat**: for the purposes of this policy, the words imminent and immediate are synonymous. "In relation to homicide in self-defense, this term (imminent danger) means immediate danger, such as must be immediately met" (Black's Law Dictionary). Immediate / imminent means that an action is pending with little or no time spacing. A subject can pose an imminent threat even if he is not at that very moment pointing a weapon at an Officer or other person. For example, an imminent threat may exist if Officers have probable cause to believe any of the following (these examples are not all inclusive):
1. The subject possess a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against an Officer or other person; or,
 2. When a violent felony suspect is armed with a firearm and running to gain the tactical advantage of cover; or,
 3. A subject with the capability of inflicting death or great bodily injury – or otherwise incapacitating an Officer or others – without a deadly weapon, is demonstrating an intention to do so; or,
 4. The subject is attempting to escape from the vicinity of a violent confrontation in which the subject inflicted or threatened the infliction of death or great bodily injury, and if the subject were allowed to escape, it would be reasonable to believe that he would continue to pose a danger to Officers or others.
- D. **Reasonable belief**: when facts or circumstances the Officer reasonably believes, knows, or should know are such as to cause an ordinary and prudent Officer to act or think in a similar way under similar circumstances
- E. **Probable cause**: facts and circumstances that would lead a reasonable person to believe that a crime is being committed, has been committed or will be committed.
- F. **Objectively reasonable**: the legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the U.S. Constitution (see *Graham v. Connor*, 490 U.S. 386 (1989)). According to *Graham* the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. As in other Fourth Amendment contexts, however, the

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"reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. Therefore, The Las Vegas Police Department examines all uses of force from an objective standard, rather than a subjective standard.

- G. **Great bodily harm / injury, serious physical injury or serious bodily harm:** an injury to a person which creates a high probability of death, results in serious disfigurement, results in loss of any member or organ of the body or results in permanent or prolonged impairment of the use of any member or organ of the body
- H. **Suspect / subject:** a suspect is defined as someone who is the target of a criminal action or investigation (i.e. a battery suspect). A subject is defined as any other person that is the target of a law enforcement action and is not a suspect (i.e. an armed / unarmed suicidal subject). Depending on the actions of a "subject", he or she can become a "suspect" if they commit a criminal act.
- I. **Deadly weapon:** means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.
- J. **Less-lethal weapon:** is any weapon that when used against another living being, and in accordance with department approved training, has less of a potential of causing great bodily harm or death when compared to a deadly weapon. Some less-lethal weapons can be used as a deadly weapon when target areas such as the high chest, neck, head or groin are intentionally targeted by the operator.
- K. **Weapon of opportunity:** is any instrument that could be used by an Officer to defend themselves or another against a violent attack. A weapon of opportunity could include, but is not limited to: a stick, vehicle, hammer, glass bottle, pipe, flashlight, sand, a rock, gravity, a knife, a rope, etc.
- L. **Excessive Force:** is the application of more force than is reasonably necessary at the time; too much force could be applied or the correct amount of force could be applied but for too long of a period of time.

ARTICLE II

PROCEDURES

§A11-6 General Provisions.

The use of force, especially force likely to result in serious bodily injury or death (including a firearm), is a serious action. When deciding whether to use force to respond to a perceived threat, Officers shall act within the boundaries of the United States and New Mexico Constitutions and laws, relevant case law – both federal and state, sound ethics, good judgment, this use of force policy or “continuum”¹, and all other relevant Las Vegas Police Department’s policies, practices and training.

§A11-7 Reasonable Force.

With these values in mind, a Police Officer shall use only that degree of force that is objectively reasonable under the circumstances and only to effect lawful objectives. An Officer may use deadly force in accordance with this policy and the law, and when all reasonable alternatives appear impracticable or objectively unreasonable.

When applying any type of force in an objectively reasonable manner, an Officer must first determine the specific facts and circumstances that are available to him about the particular case before him.

A. The law understands that often time’s police officers are asked to make split second decisions that are tense, uncertain and rapidly evolving. Personnel within this department should make themselves familiar with this policy and the law surrounding uses of force consistent with their training. So to clarify, it is not expected that an Officer will think about this policy and all the factors listed within this policy prior to using force during an actual event, but rather the Officer should have a firm understanding of what factors should be considered when using force long before the police officer is placed in a position to use force. **Knowledge is key, and it is the desire of this agency for each employee that is affected by this policy to thoroughly understand use of force law and this policy, so that when it is time to use force against another, that they do so in a manner that is consistent with the law and this policy, and without hesitation if needed.** Determining whether the force used to effect a particular seizure is reasonable under the Fourth Amendment requires a carefully balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the countervailing governmental interests at stake. The three main factors that an Officer should consider when using force are:

- 1. The severity of the crime at issue,**
- 2. Whether the suspect/subject poses an immediate threat to the safety of other law enforcement personnel or others, and**

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3. Whether the suspect / subject is actively resisting arrest or attempting to evade arrest by flight.

- B. When determining the severity level of the crime, the police officer should consider the following (this list is not all inclusive):
1. Is the crime a crime of violence or a property crime?
 2. Was anyone harmed during the crime? If so, was it to the level of great bodily injury or death or was it a minor injury?
 3. Was the suspect armed when he or she committed the crime?
 4. Is the crime classified as a misdemeanor or felony?
- C. When determining whether or not the suspect poses an immediate / imminent threat to the safety of the police officer or others, the police officer should consider the following (this list is not all inclusive):
1. Is the suspect / subject currently believed to be armed, and if so, are they currently threatening themselves or others with the weapon or have they done so in the immediate past?
 2. Are the suspect / subject in a confrontational stance or showing other signs of aggression towards an Officer or citizen?
 3. Is the suspect / subject refusing to comply with lawful commands from the police officer? (i.e. drop the weapon; do not move; show me your hands, etc.)
 4. Is the suspect / subject verbalizing threats to the police officer or others?
 5. Will the application of force by the Officer in order to overcome the resistance or level of force posed by the suspect / subject unreasonably endanger another citizen or Officer given the circumstances?
- D. When determining whether or not the suspect / subject is actively resisting arrest or attempting to evade arrest by flight, the Officer should analyze the following (this list is not all inclusive):
1. Is the suspect /subject resisting or evading arrest by non-compliance with lawful commands from the police officer?
 2. Is the suspect / subject resisting apprehension or arrest by using physical force?
 3. Is the suspect / subject evading arrest by walking away? Running away? Fleeing in a motor vehicle or other mode of transportation?
 4. Is the danger to the public and other police officers greater if the suspect / subject remain non-compliant as a result of their resistance or flight or is there a greater danger to other police and / or the public if the police officer uses the proposed level of force to apprehend the suspect / subject?

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E. Numbers, Skill and Size Disparities

1. Occasionally a police officer will be confronted during an encounter by more than one adversary, by an adversary who has been trained to a skill level in combat that places the police officer at a disadvantage, or the police officer may be confronted by an individual that is considerably larger in size or stronger than the police officer. Any of these situations can place the police officer in a position of having a significant tactical disadvantage that may warrant the Officer using a higher level of force than would have been necessary had one or more of these disparities not been present.

F. Moving from a Show of Force to a Use of Force or Moving From One Type of Force to another Type of Force

1. Nothing in this policy prevents a police officer from transitioning from one level of force (i.e. the use of pepper spray as an example) to another level of force (i.e. deadly force) if the situation dictates such a transition. There is no requirement that a police officer "escalate" through all levels of force, from the least intrusive level of force to the most intrusive level of force, in order to reach the desired level of force for the particular situation.
2. A police officer may also be required to transition between a show of force to a use of force with the same or different weapon system in a very short time frame.

G. Handcuffing and other Restraints (also refer to Chapter 09 of this policy)

1. The mere application of handcuffing an individual does not constitute a use of force. It is considered a safety procedure.
2. If the handcuffs are used as leverage control and/or pain compliance, it can be considered use of force.
3. Arrestees shall be handcuffed behind their back, with the handcuffs double locked, unless there is a physical reason which prevents such action; e.g. limited mobility, body mass, etc.
4. Other restraint devices such as leg irons are permitted for use in situations where the arrestee has demonstrated combativeness or potential for fleeing. Should these additional restraints be used, the officer shall clearly articulate the reason for use in an offense/incident report.
5. Reasonable force may be used on a handcuffed or secured prisoner when the handcuffed or secured prisoner is demonstrating overtly resistive or fleeing behavior (i.e. stiffening up like a board, kicking, head butting, etc.) that cannot be reasonably dealt with less intrusively. This incident will be properly documented on the offense incident report.
6. When force is necessary, officers may use only that level of force that is objectively reasonable to bring the subject under control.

G. Reporting.

1. An Offense/Incident Report and a Use of Force After Action Report (U.F.A.A.R.) Use of Force Form will be submitted whenever an employee:
 - (a) Discharges a firearm, for other than training or recreational purposes;
 - (b) Takes an action that results in, or is alleged to have resulted in, injury or death of another person;
 - (c) Applies force through the use of lethal or less-lethal weapons;
 - (d) Uses any equipment applying force; or
 - (e) Empty hand techniques (defensive tactics).
 - [1] NOTE: In all incidents that force is used, an officer(s) shall document the incident in an Offense/Incident Report and a Use of Force After Action Report (U.F.A.A.R.) prior to the end of their shift.
 - [2] The report will include a detailed description of the events leading to the necessity for the use of force; the amount and type of force used; the nature and extent of injuries, if any, and treatment rendered; identity of individuals involved and other pertinent information. The U.F.A.A.R. shall be submitted to the Chief of Police's office.
 - [3] U.F.A.A.R. will not be submitted to our Records Department. it will be utilized for internal purposes only.
2. Injuries. The use of defensive tactics frequently achieves the desired results without injury to any parties. However, documentation of such incidents is required. This documentation will normally be sufficiently covered in any report prepared as a result of the event. This account will include all circumstances that led to the use of a tactic and its actual use. The approving supervisor will ensure that the events are presented fully, in a clear and accurate manner.
3. Personal injury incidents. Photographs of the injuries will be taken, if possible, and included with any reports. This applies to both officers and/or suspects.
4. Medical aid to injured parties. When a person is injured because of an officer's use of force, the officer shall notify his immediate supervisor and seek medical treatment for the injured person and/or himself or herself.
5. Routing of paperwork. Any time an incident involves the use of force, the reports will be reviewed by a supervisor by the end of the shift and then a copy of the report, along with the After Action Form, will be routed through the chain of command to the Chief of Police. All supervisors checking the reports and Use of

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Force Forms will be required to conduct a review of the use of force. The supervisors are required to take appropriate action should there be a policy or other protocol violation and bring to attention any training needs through the chain of command.

§A11-8 Less-lethal force and non deadly force.

A. General provisions.

- (1) In Most instances in which force is applied are non deadly. Officers shall assess the incident to determine which technique will effectively bring the situation under control. Following the application of any method of force, once the situation is contained, officers shall provide or arrange to provide medical help if necessary.
- (2) In order to provide members of this Department with information, the Defensive Tactics Coordinator/Instructors will schedule periodic training sessions which enable officers to learn and exercise acceptable methods of defensive tactics. Officers may use techniques that are sanctioned through the Department of Public Safety training.

B. Verbal control.

1. Verbal control refers to the manner in which the officer speaks to a person, which alone can manage a situation. Verbal control includes advice, persuasion, admonitions, or orders. The volume and tone of the officer's speech may also contribute to control without having to resort to another method of force. The Department urges the use of verbal commands without the use of profanity or disrespectful or argumentative behavior.

C. Types of Less-lethal systems Utilized vs. Level of Threat / Resistance

1. Listed below are the various systems / techniques that the members of the Las Vegas Police Department may be trained to operate / utilize when dealing with non-cooperative or violent suspects / subjects. If reasonable to do so, and if it would not place the Officer or a citizen at a tactical disadvantage, the police officer should give a warning prior to deploying any type of less-lethal device / system.

D. System Type – Empty Hand Techniques

1. Empty hand techniques include the following (not all in inclusive):
 - (a) Escort position
 - (b) Wrist locks / Twist locks
 - (c) Pressure points
 - (d) Knee / elbow impact counters
 - (e) Armbar takedowns

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- (f) Impact takedowns
 - (g) Ground control techniques
 - (h) Kicking countermeasures
 - (i) Open hand impact techniques
2. Empty hand techniques are generally used to overcome the following types of resistance or during the following types of situations, realizing that the appropriate empty hand technique must be used for the appropriate level of resistive in accordance with department training guidelines (this list is not all inclusive):
- (a) To overcome passive resistance by a subject to lawful arrest or detention by a police officer.
 - (b) To overcome active resistance by a subject to lawful authority or when subject to arrest by a police officer.
 - (c) To gain custody and/or control of subject who unlawfully flees or attempts to evade a police officer in the lawful performance of their duty.
 - (d) When a suspect or subject verbally or physically threatens a police officer when the suspect has the means and ability to complete an assault.
 - (e) Against a suspect or subject that is assaulting a police officer or citizen with personal weapons (hands, feet, teeth, etc.)

E. System Type – Chemical Munitions, Chlorothochlorbenzalmalononitrile (a.k.a. CS), Oleoresin Capsicum (a.k.a. OC)) and Phenacyl Chloride (a.k.a CN)

1. OC ,CN and or CS can be deployed in the following ways:
- (a) Pyrotechnic combustion
 - (b) Blast dispersion
 - (c) Expulsion
 - (d) Liquid projectile
 - (e) Powder projectile
 - (f) Liquid aerosol
 - (g) Fog

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2. OC, CS and or CN are generally used to overcome the following types of resistance / or during the following types of situations (this list is not all inclusive):
 - (a) *As a show of force*
 - (b) *When confronted with assaultive behavior (words or actions)*
 - (c) If attempting to apprehend a suspect / subject that is unlawfully fleeing from the police officer
 - (d) To overcome physical active resistance to a lawful arrest
 - (e) As a means of expelling a suspect / subject from a fortified or barricaded position (i.e. criminal barricade or armed subject)
 - (f) As a means of detection within a structure
 - (g) To control or subdue a threatening animal
 - (h) Keep the application to the absolute minimum required to effectively control the subject and or situation.
 - (i) The use of OC spray shall not be used to threaten to elicit information nor will it be used on people who are secured, and properly in custody.

F. System Type – Electronic Restraint Device (i.e. Taser)

1. A TASER is an electronic restraint device to be utilized as a defensive tool. The TASER functions in two ways:
 - (a) It uses compressed nitrogen to project two probes a maximum of 25 feet. An electrical signal is then sent to the probes, via small wires, which disrupts the body's ability to communicate messages from the brain to the muscles and causes motor skill dysfunction.
 - (b) It acts as a touch stun system when brought into immediate contact with a person's body.
2. The decision to use the TASER is based on the same criteria the officer uses when selecting to employ an intermediate-range weapon. The decision must be made dependent on the actions of the subject(s) or the threat facing the officer(s), and the totality of the circumstances surrounding the incident. In any event, the use of the TASER must be reasonable and necessary.
 - (a) The TASER is not meant to be used in deadly force situations. The TASER must not be used without a firearm backup in those situations where there is a substantial threat towards the officer(s) or others present.

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- (b) The TASER provides a force option in which the officer does not have to get dangerously close to a threat before deploying the tool. Using the TASER may greatly reduce the need for other types of physical force by the officer(s) resulting in a serious or potentially deadly injury to the offender, officer, or others present.
- (c) Any use of an electronic restraint device contrary to the direction of this policy can result in the revocation of the officer's right to use such product and may subject the officer to disciplinary action.

3. Criteria for use.

- (a) The TASER will be utilized reasonably and will be used as an intermediate-range option. The TASER can be utilized in a contact or standoff mode.
- (b) Personnel may use an approved TASER when they are required to use physical force for protection from assault and/or when taking a person into custody.
- (c) The TASER should be used as an intermediate-range option prior to the use of impact weapons, when possible. The TASER shall not be intentionally aimed at a person's head, neck or groin.
- (d) The TASER shall only be used in an arrest or custodial situation.
- (e) Prior to carrying a TASER, officers shall successfully complete agency-approved training.
- (f) For maximum effectiveness, the TASER should be discharged at center mass (largest part of the body). Shots directed at the head/face, neck and groin are strictly prohibited.
- (g) Once an officer deploys the TASER, he or she will allow the device to run its automatic five-second cycle. If the device does not turn off within five seconds, the officer will manually turn the device off.
- (h) Always hold the TASER with the line-of-sight indicator level; avoid tilting the device when discharging, unless the suspect is lying down, to ensure both probes hit the intended target.
- (i) Officers can apply restraints to a suspect while the TASER is in operation. Once the suspect is secured, the TASER shall be shut off.
- (j) Due caution shall be utilized when dealing with individuals who are obviously pregnant, elderly, children, the physically handicapped and people in vulnerable position, where there is a risk of serious secondary injury (e.g., in dangerously elevated positions, in water or near flammable substances) prior to the deployment of the TASER.

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TASER use in these circumstances should be avoided when possible. Other appropriate force options should be considered unless their use endangers officers or others.

- (k) The TASER may be used by removing the cartridge and using it in drive-stun mode. This can be done should an individual free himself or herself from the probes, restraints or if one of the probes fails to make contact.
 - (l) Avoid using the TASER around flammable liquids, gases, blasting materials or other highly combustible materials.
 - (m) The TASER shall not be utilized as the primary level of force when dealing with an armed suspect, unless a cover officer is readily available.
4. Post-deployment. After an officer uses the TASER to take a suspect into custody, the officer shall:
- (a) Handcuff the suspect to minimize the threat of injury to either the officer, the suspect and/or the general public.
 - (b) Remove the TASER prongs at the earliest opportunity. The TASER prongs shall only be removed by an officer who has completed the Department-approved TASER training.
 - [1] TASER prongs that have struck the face, groin or female breasts shall only be removed by fire/rescue or medical personnel.
 - [2] TASER prongs that have struck a person's body shall be considered evidence and shall be collected in accordance with the procedures for the collection of evidence. *Editor's Note: See Ch. [A24](#), Property and Evidence.*
 - (c) Visually examine the area struck to determine if an injury was sustained.
 - [1] Photographs shall be taken of the penetration sites of the probes and any significant injuries.
 - [2] All injuries or the absence of injuries shall be noted on the Use of Force After Action Report (U.F.A.A.R.).
 - [3] All photographs, probes and cartridges shall be collected and secured as evidence for possible court purposes.
 - (d) The officer, after using the TASER, shall request that medical personnel from the Las Vegas Fire Department, ambulance or hospital

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emergency room conduct an examination to determine whether the individual has suffered any injury, either directly from the TASER discharge or indirectly such as falling after incapacitation.

- (e) The data port on the TASER stores the time, date and duration the TASER was fired.

[1] The officer, once the TASER has been utilized, shall meet with the Field Operations Division Commander in order to download the recent deployment of the TASER.

[2] Only the Field Operations Division Commander or assigned personnel may download the TASER. This download will be on a secured computer, under the authority of the Field Operations Division Commander.

5. Reporting.

- (a) Any discharge other than the function test, either intentional or accidental, shall necessitate the immediate notification of the officer's supervisor.
- (b) When an officer, either intentionally or accidentally, uses the TASER, even if a subject is not struck, he or she shall ensure that the reporting of the incident as detailed in § [A11-7G](#) of this policy is complied with. A U.F.A.A.R shall also be completed and forwarded to the Chief of Police along with the other documentation.
- (c) The Use of Force Instructor shall investigate each incident/deployment to determine if usage was proper and met Department policies and notify the Chief of Police of the findings.

6. Maintenance.

- (a) No changes, alterations, modifications or substitutions shall be made to the Department-issued TASER. All repairs to TASERs or accessories shall be completed by an authorized vendor.
- (b) Officers will dust and inspect their issued TASER and cartridges daily, prior to reporting to duty. If damages or problems are found, officers will contact the division Commander for unit evaluation and/or replacement, as soon as possible.
- (c) Daily function testing (spark test) shall be conducted in accordance with TASER training.

G. System Type – Patrol K-9

1. *Patrol K-9's can be deployed in the following ways:*

USE OF FORCE

- (a) *On lead (Patrol K-9 is tethered to the handler while conducting a search)*
 - (b) *Off lead (Patrol K-9 is not tethered to the handler and is free to search under the verbal direction of the handler)*
 - (c) *Patrol K-9's primary purpose is to locate persons or things, but can be used as a use of force (bite) if reasonable under the circumstances*
- 2. Patrol K-9's are generally used to overcome the following types of resistance / or during the following types of situations (this list is not all inclusive):
 - (a) As a show of force
 - (b) To locate and / or detain an escapee from a jail or prison who had been committed to the facility for a violent crime
 - (c) To locate and / or detain an outstanding criminal suspect who is believed to be the perpetrator of a violent criminal offense or who is believed to be armed with a deadly weapon

H. System Type – Expandable Baton

- 1. Expandable Baton's can be deployed in the following ways:
 - (a) In a swinging motion in the expanded position
- 2. Expandable Baton is generally used to overcome the following types of resistance / or during the following types of situations (this list is not all inclusive):
 - (a) As a show of force to counter a subject who verbally or physically threatens a police officer or other citizen, when the suspect has the opportunity and ability to complete an assault.
 - (b) Against a suspect or subject that is assaulting a police officer or citizen with personal weapons (hands, feet, teeth, etc.)
 - (c) To control or counter an aggressive, attacking animal.
 - (d) Strikes should target areas of the body which may result in compliance by the suspect or allow the Officer to gain control.

I. System Type – Extended Range Impact Devices (ERID)

- 1. ERID's can be deployed in the following variations:
 - (a) Pepper Ball Launcher and gun
 - (b) 35/40mm Launcher system
 - (c) Bean Bag 12 gauge system

USE OF FORCE

2. ERID's are generally used to overcome the following types of resistance / or during the following types of situations (this list is not all inclusive). Additionally, each type of ERID that is utilized by this agency will have different injury potentials and therefore will generally be used in varying scenarios depending on what level of force the Officer is being confronted with. (see individual ERID policies and training curriculums for specifics on use):
 - (a) As a show of force when confronted with a suspect / subject that is armed with a deadly weapon, and when available distance and hard cover are used in conjunction with lethal cover
 - (b) As a area denial system (launchers)
 - (c) When confronted by a suicidal subject that is armed with a deadly weapon and lethal cover and hard cover are used in conjunction with the ERID
 - (d) When confronted by a subject that has committed a violent misdemeanor and who refuses to comply with lawful orders (Pepperball)
 - (e) When confronted by a subject that has committed a violent felony and who refuses to comply with lawful orders

J. System Type- Pepper Ball Launching System (PLS)

1. The PepperBall launching system is a unique less lethal chemical agent delivery system that uses high-pressure air launchers to deliver projectiles from a distance. It can be used on individual suspects as well as large groups of people for riot and crowd control.
2. PepperBall projectiles are plastic, frangible spheres that are filled with Pelargonic Acid Vanillylamide (PAVA) powder. The projectiles, when delivered by an air-powered launching device, burst on impact and release the PAVA powder. The PLS can deliver the projectiles with enough kinetic energy to produce temporary abrasions, bruises and/or welts.
3. PepperBall projectiles subdue suspects by strongly irritating their nose, lungs and breathing. When inhaled, PepperBall products leads to coughing, shortness of breath, and in some instance vomiting. Some individuals may experience eye irritation as well.
4. The deployment and use of the PLS can assist in overcoming resistance directed at the officer or others or a third party from unlawful force; to protect property; or to effect other lawful objectives, such as to make an arrest. Circumstances justifying the use of the PLS include, but are not limited to:
 - (a) When a suspect exhibits violent or potentially violent behavior that threatens the safety of others.

USE OF FORCE

- (b) When it is unsafe for an officer to approach a suspect within contact range.
 - (c) When higher use of force options may be justified, but an opportunity exists for the use of the PLS before these other options are deployed.
 - (d) To defend one's self or another from an aggressive and/or attacking animal.
 - (e) To disperse or control an unruly, rioting crowd threatening unlawful property damage or physical force.
 - (f) Trained officers will properly care for and maintain the PLS for service.
 - (g) All problems will be reported to the Division Commander via the chain of command.
 - (h) Officers shall only use PepperBall Technologies, Inc. launchers and projectiles.
 - (i) The PLS will be stored in a secure location as determined by the Division Supervisor.
- 5. Officers encountering a situation which requires the use of the PLS, when feasible, shall immediately notify a supervisor. This system can be used before the arrival of a supervisor when the situation dictates such use. The supervisor shall respond to all PLS deployments. The supervisor shall make all notifications and ensure reports are submitted as required by the use of force policy.
 - 6. Officers will target the center mass of the body, unless the suspect is wearing heavy clothing, then he will target less padded areas such as legs and arms, as well as the surfaces around the suspect to disperse the PAVA powder. Officers shall not intentionally target the eyes, face, neck, or spine.
 - 7. Officers will give a verbal warning, loudly and clearly, before dispensing projectiles. Officers hearing this warning should immediately break contact with the intended target and create distance while the projectiles are deployed.
 - 8. Persons exposed to the PLS may be provided with decontamination assistance within a reasonable amount of time.
 - 9. Arrestees who have been struck with projectiles shall be transported to a medical facility for evaluation and treatment.
 - 10. The use of the PLS is considered a reportable use of force; therefore, any reports made necessary by the nature of the underlying incident and a U.F.A.A.R. shall be completed.

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11. Only officers who have successfully completed a Department-approved training course in the proper use and deployment of the PLS shall be authorized to use it during actual operations. Recertification will be on a biannual basis.

K. System Type- Bean-bag shotgun (12-gauge).

1. Bean-bags are considered to be extended-range impact weapons that allow officers to deliver a similar type of force comparable to batons.
2. Examples of situations in which the bean-bag may be used include, but are not limited to, the following:
 - (a) Dealing with a mentally ill subject who is perceived to be violent.
 - (b) Armed subjects.
 - (c) Warrant service where the subject is perceived to be violent.
 - (d) Violent persons under the influence of drugs and/or alcohol.
 - (e) Persons expressing the intent and having the means to commit suicide.
 - (f) When deemed a reasonable alternative to lesser-force options that will be likely to be ineffective or greater-force options that may be inappropriate given objective circumstances.
3. When feasible, the bean-bag operator should consult with a supervisor prior to the use.
4. The bean-bag should not be pointed at any individual unless the officer involved reasonable believes it will be necessary to use the device.
5. The bean-bag shall not be used:
 - (a) When the operator cannot, for safety or other reasons, approach the subject within the effective range of the device.
 - (b) When it is reasonable to believe that incapacitation of the subject may result in serious injury or death.
6. In less-lethal force situations, when possible, officers should avoid using the bean-bag on:
 - (a) Persons in wheelchairs or in control of a vehicle.
 - (b) Pregnant women.
 - (c) People with known heart problems.

USE OF FORCE

- (d) People with apparent debilitating illness or the elderly.
 - (e) Children or those under 80 pounds.
 - (f) Individuals with known neuromuscular disorders such as multiple sclerosis or muscular dystrophy.
- 7. Only officers who have successfully completed the agency's approved course of instruction on the bean-bag are authorized to use it in tactical situations.
 - 8. Officers of this agency shall receive refresher training in use of the bean-bag on an annual basis during firearms instruction.

UNDER NO CIRCUMSTANCES DOES A BEAN-BAG ROUND GO INTO ANYTHING OTHER THAN A 12-GAUGE SHOTGUN.

§A11-9 Deadly Force

A. Deadly Force and Weapons of Opportunity

- 1. Generally deadly force can be used by a Police officer of this agency during the following types of situations (this list is not inclusive):
 - (a) When a suspect or subject threatens a police officer or a citizen with a deadly weapon and the Officer has probable cause to believe that he or the citizen are in imminent danger of serious bodily harm or death as a result of the posed threat.
 - (b) When a police officer has probable cause to believe a suspect is attempting to escape from the vicinity of a violent confrontation in which the suspect inflicted or threatened the infliction of death or great bodily injury, and if the suspect were allowed to escape, it would be reasonable to believe that he would continue to pose a danger to Officers or others
 - (c) To kill a dangerous animal or one that humane treatment requires its removal from further suffering and alternative methods of disposition are impractical and when the use of such force will not unreasonably endanger another person.
- 2. Imminent danger which may require the use of deadly force may also exist if an Officer has probable cause to believe that:
 - I. 1) The subject poses a threat of serious physical injury **and**
 - II. 2) The police officer has probable cause to believe any of the following:

USE OF FORCE

- (a) When a suspect possesses a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against a police officer or other person
 - (b) When a violent felony suspect is armed with a firearm and is moving to gain the tactical advantage of cover
 - (c) When a suspect(s) with the capability of inflicting death or great bodily injury, or otherwise incapacitating an Officer, without a deadly weapon, is demonstrating an intention to do so
- 3. If reasonable to do so, and if it would not place the police officer or a citizen at a tactical disadvantage, and if time allows, the Officer should give a warning prior to deploying deadly force. An example of a warning could be, "Police. Stop or I will shoot" or "Drop the knife / gun or I will shoot".
 - 4. In some instances it may be appropriate for a police officer to utilize a weapon of opportunity to defend himself or others. If a police officer becomes disarmed (loss of less-lethal tool or approved firearm), or if a police officer cannot use an approved weapon because of injury or for other legitimate reasons, or if a weapon of opportunity is the most reasonable response, a police officer is authorized to use a weapon of opportunity to defend himself or another as long as the weapon used is an objectively reasonable use of force, given the threat posed by the suspect / subject.

B. Prohibited uses of deadly force.

- 1. Officers shall not unreasonably or unnecessarily endanger themselves or the public in applying deadly force pursuant to this policy or state law.
- 2. An officer shall not rely solely on third-party reports as a basis for use of deadly force, without firsthand knowledge of an alleged offense.
- 3. An officer shall not use deadly force in situations that would not be in accordance with New Mexico state statutes.
- 4. An officer shall not use deadly force in an attempt to apprehend fleeing felons or escapees who are not placing the officer or another person in immediate danger of death or immediate serious bodily injury.
- 5. All officers shall be familiar with all provisions of the New Mexico state statutes and this directive governing the legal use of deadly force.
- 6. Police Officers are not authorized to fire "warning" shots. If it is objectively reasonable for an Officer to use deadly force to protect himself or another, then the Officer should apply the force required at that time.

§A11-10. Administrative duty.

- A. Immediately following an officer's involvement in an incident involving serious injury or death, the officer will be automatically placed on administrative duty pending a review by the Chief of Police on the next normal work day. Unless the duty status is changed to a suspension status by the Chief of Police, the officer shall remain in an administrative duty status until such time as the matter is resolved legally and administratively.
- B. Assignment to administrative duty is non-disciplinary with no loss of pay or benefits. This duty is designed to address the personal and emotional needs of the officer involved in the use of deadly force and ensure the community that the facts surrounding the case are fully and professionally investigated.
- C. An officer placed on administrative duty will be assigned to office duty in civilian clothes.
- D. The officer may be placed on administrative leave instead of administrative duty at the discretion of the Chief of Police. Assignment to administrative leave is non-disciplinary with no loss of pay or benefits.
- E. An officer on administrative leave shall ensure his/her availability to investigators until the investigation has been concluded.
- F. Officers on administrative duty or leave are authorized to carry an approved firearm, unless otherwise directed by the Chief of Police. Officers shall not work off-duty police-related jobs and should not enforce laws and make arrests except in emergency situations.
- G. An officer whose action results in a deadly force incident will be required to counsel with the Department-appointed counselor. The counselor must make written notification that the officer is fit for duty before the officer returns to duty.
- H. The Department will make available and reserve the right to require counseling for officers who had involvement in a deadly force incident.

§ A11-11. Incidents of force review.

- A. If a use of force reasonably indicates a possible violation of LVPD policy or other inappropriate conduct, the immediate or any other supervisor will refer the matter directly to the Office of the Chief for review.
- B. Referrals to the Office of the Chief will be automatic and take place immediately anytime there is a firearm discharge, except at the firing range.
- C. The Office of the Chief will be responsible for ensuring that all use of force data from all reports are regularly and accurately compiled, analyzed and reviewed.
- D. The administrative staff will:

USE OF FORCE

1. Review all reported uses of force to determine whether Department policy was complied with;
2. Analyze use of force data on a regular basis to detect trends;
3. Have compiled in writing and review use of force incidents by officer and type of force used; and
4. Review the data for the purpose of identifying and acting upon their implications for policy and training designed to ensure that officers are using only appropriate types and amounts of force.

§A11-12. Limitation on force.

The following acts associated with the use of force are prohibited:

- A. Firing into crowds. (except for less lethal crowd dispersing munitions)
- B. Firing a warning shot.
- C. Firing at or from a moving vehicle.
 1. Firing at or from a moving vehicle is prohibited except where the officer reasonably believes that:
 - (a) An occupant of the other vehicle is using, or threatening to use, deadly force by a means other than the vehicle; or
 - (b) A vehicle is operated in a manner deliberately intended to strike an officer or a citizen and all other reasonable means of defense have been exhausted (or are not present), including moving out of the path of the vehicle and the safety of innocent persons would not be unduly jeopardized by the officer's action.
 2. Officers shall not fire at or in the direction of a vehicle that no longer poses an immediate threat.
- D. Firing into a building or through doors when the person fired at is not clearly visible unless officers are being fired upon from such building or through such door.
- E. Firing at a suspect when lesser force could be used and the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force, or when there is any substantial danger to innocent bystanders.
- F. Application of choke hold or carotid control holds, except when the officer reasonably believes such holds are the only means of protecting himself or herself or another person from an imminent threat of serious physical injury or death.

USE OF FORCE

- G. Use of flashlights as batons. An officer may use a flashlight or other object designed for a use other than as a weapon only to defend himself or herself or another from imminent serious physical injury or death and then only if Department-sanctioned methods are not available or are impractical. The use of a flashlight under such circumstances shall be deemed an application of deadly force.
- H. Carrying or use of a second back-up firearm which has not been approved by the Chief of Police and which the officer has not qualified with.
- I. The carrying or use of saps, blackjacks, slapjacks.
- J. Use of deadly force against unarmed, non dangerous fleeing felons, fleeing misdemeanants, or traffic offenders.
- K. Any use of force not reasonably necessary in the light of the circumstances confronting the officer.
- L. Any forcible enforcement action when off duty except in circumstances which seriously threaten life, valuable property, or public order.

§ A11-13. Training.

Regular training should be conducted to instruct officers in the use of force policy. Copies of this policy will be issued to each officer before being authorized to carry a weapon and will be updated as needed. This issuance and instruction will be documented.

§ A11-14. Interpretation of terms.

The use of a trademark brand (if any) in this order does not imply endorsement of any product. Rather, this general order may refer to a trade name only to convey the degree of specificity required by written policy.

II ATTACHMENTS

Use of Force After Action Report. (U.F.A.A.R.)

III APPROVAL

APPROVED BY: _____ DATE: _____
Chief Juan Montano Las Vegas Police Department

DATE:	TIME:	LOCATION:	REPORT NUMBER:
SUBJECTS NAME (Last, First, Middle):		DOB:	SSN:

[illegible]

CHEMICAL SPRAY

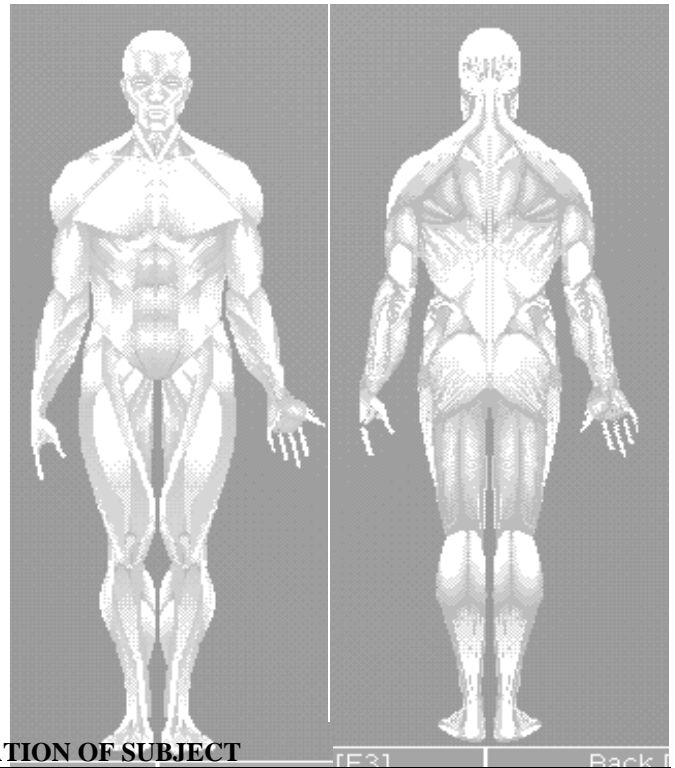
(INDICATE TARGET AREA ON DIAGRAM)		EYES: <input type="checkbox"/> CLOSURE <input type="checkbox"/> TEARS <input type="checkbox"/> NO EFFECT
WAS SPRAY EFFECTIVE? <input type="checkbox"/> YES <input type="checkbox"/> NO		NOSE: <input type="checkbox"/> DISCHARGE <input type="checkbox"/> IRRITATION <input type="checkbox"/> NO EFFECT
NUMBER OF TIMES SPRAYED: _____		SKIN: <input type="checkbox"/> REDNESS <input type="checkbox"/> BURNING <input type="checkbox"/> NO EFFECT
APPROXIMATE DISTANCE FROM SUBJECT: _____		BREATHING: <input type="checkbox"/> COUGHING <input type="checkbox"/> LABORED <input type="checkbox"/> NO EFFECT
FURTHER CONTROL METHODS NEEDED? <input type="checkbox"/> YES <input type="checkbox"/> NO		

CONTROL METHODS

RESTRAINT METHODS USED:	
<input type="checkbox"/> HANDCUFFS <input type="checkbox"/> LEG IRONS <input type="checkbox"/> RESTRAINT CHAIR <input type="checkbox"/> SPIT HOOD <input type="checkbox"/> NONE <input type="checkbox"/> OTHER _____	
LATERAL VASCULAR NECK RESTRAINT (LVNR) APPLIED:	
<input type="checkbox"/> NOT APPLIED <input type="checkbox"/> LEVEL I <input type="checkbox"/> LEVEL II <input type="checkbox"/> LEVEL III	
UNCONSCIOUSNESS OCCURS? <input type="checkbox"/> YES <input type="checkbox"/> NO	
EMPTY HAND TECHNIQUES: (USING DIAGRAM INDICATE AREA WHERE TECHNIQUE WAS APPLIED)	
PRESSURE POINTS / LIST _____ STRIKES / LIST _____	
LOCKS / LIST _____ OTHER / LIST _____	

LESS LETHAL DEPLOYMENT

(INDICATE IMPACT AREA ON DIAGRAM)	
WAS LESS LETHAL EFFECTIVE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
IMPACT TOOL: <input type="checkbox"/> PPB <input type="checkbox"/> STRAIGHT BATON <input type="checkbox"/> OTHER _____	
# HITS _____ # MISSES _____ APPROX. DISTANCE: _____	
ADVANCED: <input type="checkbox"/> BATON/ BEAN BAG ROUND <input type="checkbox"/> TASER	
# HITS _____ # MISSES _____ APPROX. DISTANCE: _____	
LIST VARIABLES REGARDING EFFECTIVENESS (clothing, barriers, running, ect)	



FIREARMS

(INDICATE IMPACT AREA ON DIAGRAM)	
<input type="checkbox"/> CHALLENGE ONLY <input type="checkbox"/> DISCHARGE	
FIREARM: <input type="checkbox"/> PISTOL <input type="checkbox"/> SHOTGUN <input type="checkbox"/> OTHER _____	
# HITS _____ # MISSES _____ APPROX. DISTANCE: _____	
WEAPON MAKE _____ MODEL _____ SERIAL # _____	

POST-INCIDENT OBSERVATION OF SUBJECT

INITIAL OBSERVATION: (OFFICER'S NAME / PSN)	OBSERVATIONS 15 MINUTES LATER:	OBSERVATIONS 30 MINUTES LATER:
TIME: _____	TIME: _____	TIME: _____

REPORTING OFFICER

REPORTING OFFICER'S NAME / PSN:	TYPE OF FORCE USED:	OFFICER INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO
		LIST INJURY: _____
SECONDARY OFFICER'S NAME / PSN:	TYPE OF FORCE USED:	OFFICER INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO
		LIST INJURY: _____
SHIFT SERGEANT'S NAME / PSN:	REVIEWED BY: (Initials / PSN)	
	SGT. _____ / _____ LT: _____ / _____ CDR. _____ / _____ CHIEF: _____ / _____	

**Las Vegas
City Police Department**

PERSONNEL ORDER	DATE	DISTRIBUTION	NUMBER
	October 4, 2016	All Personnel	10-4-16 KJ
SUBJECT:	New Las Vegas Police Department Use of Force Policy		

Effective Immediately, due to the rapid change and requirements from the New Mexico Law Enforcement Standard Council, for the change in the use of force policies from New Mexico's law enforcement agencies. The Las Vegas Police Department, in order to maintain its accreditation will be implementing a new Use of Force Policy as well as a new Use of Force After Action Report (U.F.A.A.R.) form.

Use of force is a serious action and when decided whether or not to use force, Police Officers shall act within the boundaries established by the United States and New Mexico Constitutions, relevant federal, state and local laws and precedents. This use of force policy and all other relevant and related Las Vegas Police Department's policies, best practices and training, are intended to establish guidelines that when combined with sound ethics and good judgment, provide lawful application and use of force.

This policy will replace the current use of force policy.

I am requiring this policy be reviewed by **Monday October 17, 2016** a policy review form will need to be turned in acknowledging completion.

Failure to comply with this order will result in the necessary disciplinary action.

Please contact me if there are any questions regarding this order

Kenneth C. Jenkins
Deputy Chief of Police

By Order of:

Juan F. Montaña
Chief of Police

XC: File